

## STATE OF ILLINOIS

### ILLINOIS COMMERCE COMMISSION

Charmar Water Company )	11-0561
Proposed General Increase in Water Rates )	
)	
Cherry Hill Water Company )	11-0562
Proposed General Increase in Water Rates )	
)	
Clarendon Water Company )	11-0563
Proposed General Increase in Water Rates )	
)	
Killarney Water Company )	11-0564
Proposed General Increase in Water Rates )	
)	
Ferson Creek Utilities Company )	11-0565
Proposed General Increase in Water And )	
Sewer Rates )	
)	
Harbor Ridge Utilities, Inc. )	11-0566
Proposed General Increase in Water And )	
Sewer Rates )	(Cons.)

### BRIEF ON EXCEPTIONS OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

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**BRIEF ON EXCEPTIONS OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.830 of the Illinois Commerce Commission’s (“Commission” or “ICC”) Rules of Practice (83 Ill. Adm. Code 200.830), respectfully submits its Brief on Exceptions in the instant proceeding.

**I. BACKGROUND**

On June 29, 2011, Charmar Water Company (“Charmar”), Cherry Hill Water Company (“Cherry Hill”), Clarendon Water Company (“Clarendon”), Killarney Water

Company (“Killarney”), Ferson Creek Utilities Company (“Ferson Creek”), and Harbor Ridge Utilities Company (“Harbor Ridge”) (collectively, “UI”, “Utilities, Inc.” or “the Companies”) filed tariffs seeking a general increase in water and sewer rates.<sup>1</sup> On August 2, 2011, the Commission entered Suspension Orders commencing the investigation concerning the propriety of the Companies’ request for rate increases and on November 2, 2011 entered a Resuspension Order extending the suspension through May 27, 2012. At a status hearing on September 1, 2011, the Administrative Law Judge (“ALJ”) assigned to this proceeding granted Staff’s request to consolidate the six dockets. The ALJ established a schedule for the submission of pre-filed testimony, hearings, and briefs (*Tr.*, Sep. 1, 2011, p. 6-7).

The People of the State of Illinois (“AG”) intervened on September 8, 2011 and filed Direct and Rebuttal Testimony. On October 3, 2011, Antioch Golf Club Community Association intervened, but did not file testimony.

At the January 25 and 26, 2011 evidentiary hearing in this matter, witnesses for Utilities, Inc., Staff, and the AG testified. The parties filed briefs on February 22 and March 7, 2012. The ALJ issued a Proposed Order (“ALJPO”) on April 6, 2012. Staff commends the ALJ on a well-reasoned ALJPO. Staff does take the following exceptions, however. Additionally, Staff attaches Appendix A, containing its redline exceptions to the ALJPO, as well as minor ministerial and typographical edits.

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<sup>1</sup> Only Ferson Creek and Harbor Ridge filed tariffs for rate increases in sewer rates.

## II. ARGUMENT

### *Staff Exception 1: Technical Correction to Page 12*

The presentation of the Harbor Approved Rate Base on p. 12 of the ALJPO contains underlining formatting on the “Net Pro forma Plant” line, and a superfluous zero amount on the “ADIT Regulatory Asset” Line that are inconsistent with the other utilities’ presentations and may cause confusion. Therefore, Staff recommends the ALJPO at p. 12 be revised as follows:

<u>Harbor Approved Rate Base</u>	<u>Water</u>	<u>Sewer</u>
[...]		
ADIT Regulatory Asset	\$0	<del>\$0</del> \$0
Net Pro forma Plant	\$132,000	\$0

### *Staff Exception 2: Technical Correction to Page 13*

The following sentence in the ALJPO at p. 13 is incomplete and inconsistent with the summary presented introduction to Rate Base presented on p. 4 of the PO. Therefore, Staff recommends the PO at p. 13 be revised as follows:

#### **V. Operating Revenues, Expenses, and Income**

[...] Staff’s proposed adjustments and recommendations are summarized below and reflected in Appendices A, B, C, \_\_\_\_\_ and \_\_\_\_.

### *Staff Exception 3: Technical Correction to Page 18*

The presentation of the Killarney total unamortized rate case expense amount on p. 18 of the ALJPO contains an erroneous amount and should be corrected to reflect the Company’s rebuttal amount of \$115,398, accepted by Staff and the ALJPO, as shown at Killarney Ex. 3.0, Schedule 3.1 KI, p. 9, line 8, column (b). This amount

agrees with the ALJPO at p. 36. Therefore, Staff recommends the ALJPO at p. 18 be revised as follows:

**Commission Analysis and Conclusion**

[...] The total amortized rate case expense in the following amounts per Company are approved for recovery:

[...]

Killarney      ~~\$116,773~~    \$115,398

*Staff Exception 4: Depreciation Rates*

Staff agrees with the Proposed Order's overall conclusion regarding depreciation rates. However, there are some minor typographical errors that should be corrected. Therefore Staff proposes the following change to the Depreciation Rates Section of the ALJPO:

With respect to depreciation rates, Clarendon, Killarney, Ferson and Harbor proposed moving from composite water and sewer depreciation rates to separate water and sewer depreciation rates for each primary account. Staff witness Johnson proposed some adjustments to the Companies' proposed water and sewer depreciation rates shown in ICC Staff Ex. 6.0, Schedules 6.01 CWC, 6.01 KWC, 6.01 FCUC-W, 6.01 HRUI-W, 6.01 FCUC-S and 6.01 HRUI-S. The Companies agreed with Staff's proposed depreciation rate adjustments. These adjustments are reasonable and are hereby approved by the Commission.

Staff also proposes the following change to the Findings and Orderings

Paragraphs Section regarding Depreciation Rates:

(20) the proposed water and sewer depreciation rates ~~by Staff~~ (Identified in ICC Staff Ex. 6.0, Schedules 6.01 CWC, 6.01 KWC, 6.01 FCUC-W, 6.01 HRUI-W, 6.01 FCUC-SW and 6.01 HRUI-SW) are approved;

*Staff Exception 5: Technical Correction to Document Headers*

The document headers do not list all docket numbers in this consolidated proceeding. Also, the first docket number contains a slash instead of a hyphen. Therefore, Staff proposes the following corrections to each page of the ALJPO:

11-0561/11-0562/11-0563/11-0564/11-0565/11-0566

*Staff Exception 6: Technical Correction to Companies' Service Areas and Nature of Operations*

This section lists the dates and docket numbers for the Companies' current rate structures. The dates listed for two of the Orders are incorrect. In one case, the date listed in the ALJPO is the date the tariffs were initially filed with the Commission. In the other case, the date listed in the ALJPO is the date the tariffs were issued by the Company following the Order. Therefore, Staff proposes the following corrections:

Charmar provides water service to approximately 53 customers in Lake County. Charmar's current water rate structure was approved pursuant to an Order, dated April 7, 2004, in Docket No. 03-0400. Cherry Hill provides water service to approximately 259 customers in Will County. Cherry Hill's current water rate structure was approved pursuant to an Order, dated April 7, 2004, in Docket No. 03-0401. Clarendon provides water service to approximately 363 customers in DuPage County. Clarendon's current water rate structure was approved pursuant to an Order, dated August 26, 1998~~November 21, 1997~~, in Docket No. 97-0664. Killarney provides water service to approximately 346 customers in McHenry County. Killarney's current water rate structure was approved pursuant to an Order, dated May 24~~23~~, 1995, in Docket No. 94-0329. Ferson provides water and sewer service to approximately 375 customers in Kane County. Ferson's current water and sewer rate structure was approved pursuant to an Order, dated June 21, 1984, in Docket No. 83-0432. Harbor provides water and sewer service to approximately 320 customers in Lake County. Harbor's current water and sewer rate structure was approved pursuant to an Order, dated October 23, 1995, in Docket No. 94-0512.

*Staff Exception 7: Technical Correction to Rate Case Expense*

Table 4, found on page 16 of the ALJPO, which contains information about rate case expense, contains an incorrect header in the ALJPO. The second column lists the number of customers for each Company, not the number of employees. Therefore, Staff proposes the following correction to Table 4, along with a few formatting adjustments:

Utility (a)	Number of <del>Employees</del> Customers (b)	Internal Labor Cost Allocation (c)	WSC Rate Case Captive Deduction (d)	Rate Case Internal (WSC) Labor Cost (e)
Charmar	53	\$4,033	\$283	\$79,339
Cherry Hill	259	\$23,944	\$1,409	\$76,339
Clarendon	363	\$35,108	\$1,939	\$77,109
Killarney	346	\$31,169	\$2,405	\$76,823
Ferson Creek	378 (water) 370 (sewer)	\$35,591 W \$35,852 S	\$1,988 \$1,988	\$38,682 \$38,682
Harbor Ridge	319 (water) 316 (sewer)	\$22,114 W \$25,722 S	\$1,977 \$1,958	\$40,195 \$40,195
TOTAL		\$213,533	\$13,947	\$537,826

*Staff Exception 8: Affiliated Interest and HomeServe USA*

The ALJPO addresses the affiliate interest agreement issue raised by Staff and discussed by the Companies. Staff, however, recommends that the ALJPO more specifically address the process by which the investigation is to begin. Therefore, Staff recommends the following changes to the paragraph on page 25 in the ALJPO as indicated below:

For the purposes of these rate proceedings, the Commission finds that the issues raised by Staff related to the HomeServe transaction have been satisfactorily addressed by the Companies' concessions to reduce its revenue requirements by the amount of HomeServe payments and to participate in a proceeding to address modification of the Affiliated Interest Agreement applicable to all Utility, Inc. affiliates operating in Illinois. However, the Commission agrees with the Companies that this rate case is not the preferred forum to address those issues because not all Utilities Inc. utilities are parties to this case. Therefore, the Commission declines to approve Staff's proposal to make a finding in this proceeding that the Companies have violated the Public Utilities Act. However, the Commission is concerned that the Companies did not propose to share HomeServe revenues with utility ratepayers. Therefore, the Commission directs all Utilities Inc. utilities within Illinois to jointly file a petition within 90 days of the date of this Order to provide the Commission with testimony regarding whether the existing Affiliated Interest Agreement properly balances ratepayer and shareholder interests, protects ratepayer privacy,



and is in the public interest. In addition, the Companies will include in that filing either the existing Affiliated Interest Agreement for re-approval or propose a new agreement, which they believe to be in the public interest for approval.

*Staff Exception 9: Cost of Service Study*

Staff agrees with and supports substantial portions concerning rates of the ALJPO. While generally speaking, Staff does not object to the ALJPO's conclusion regarding the issues in section VII, Staff finds that important information was omitted that should have been included. Staff respectfully recommends that the ALJPO reflect Staff's positions in this case.

The ALJPO appears to have omitted a crucial section concerning Staff's recommendation about a cost of service study ("COSS") workshop. Staff agreed with the Companies' concern that conducting a COSS would be too expensive for ratepayers because the cost would have to be allocated over a small number of customers, resulting in a significant adverse impact on customer bills. Thus, Staff believes it would not be in the best interests of the customers to incur the expense of a COSS. However, Staff suggested that there could be a feasible and less-costly COSS alternative that Staff and UI could jointly develop for use in future rate case filings that would be more transparent and cost-based than the method used by UI in this proceeding. (Staff IB, p. 24) Specifically, Staff's final recommendation is the following:

1. The Commission should order UI to work with Staff to review and analyze UI's current method of cost of service and rate design methodology;
2. The Commission should order UI to develop a COSS with Staff for use in future UI rate cases; and

3. The Commission should order that such review and analysis should be completed within six months from the date of the Final Order. (Staff IB, p. 24)

Therefore, Staff respectfully requests that Section VII.A. - Rate Design and Billing Cycle - be deleted in its entirety and the following modification inserted in its place:

## **VII. COSS/Rate Design/Tariff Terms**

### **A. COSS**

Staff agreed with the Companies' concern that conducting a COSS would be too expensive for ratepayers because the cost would have to be allocated over a small number of customers, resulting in a significant adverse impact on customer bills. Thus, Staff concluded that it would not be in the best interests of the customers to incur the expense of a COSS. However, Staff suggested that there could be a feasible and less-costly COSS alternative that Staff and UI could jointly develop for use in future rate case filings that would be more transparent and cost-based than the method used by UI in this proceeding. (Staff Exs. 4.0, p. 9 and 5.0, pp. 8 – 9.)

The Companies agreed to work with Staff to develop a COSS, however, the Companies did not agree that it should be six months prior to the next rate case. UI claimed that the time frame was unrealistic as a decision to file a rate case may occur less than six months prior to filing. (UI Ex. 2.0, p. 21)

Staff explained in Rebuttal Testimony that the COSS workshop parties would not necessarily reach a consensus on all outstanding issues, but could provide a good starting point for resolving differences and improving the accuracy of future COSSs upon which future rates could be set. Staff revised its recommendation that such a workshop should be completed within six months commencing from the date of the Final Order in this proceeding. Adoption of Staff's proposal would allow a maximum of six months to complete the workshop process. (Staff Ex. 11.0, pp. 4 – 5.)

In Surrebuttal Testimony, the Companies again only partly agreed with Staff to develop and streamline a procedure or process for a COSS. Companies witness Georgiev stated the terms of Staff's recommendations were unclear to the Companies. UI stated they are willing to review any schedules that Staff had developed related to a streamlined COSS to use in future filings. The Companies did not believe the deadline for completion of the workshop should be ordered by the Commission in this docket, but rather the deadline should be a subject of the workshop. (UI Ex. 5.0, p. 8)

Staff asserted that a deadline must be ordered by the Commission to ensure that the task is accomplished and steps are taken to move the Companies toward cost based rates. (Staff IB, p. 24) Specific rates will not be identified in the workshop but parties should reach an agreed format for a COSS and a method for the accounts to be maintained so the COSS inputs are useful in setting future rates for UI. Staff's final recommendations are the following:

1. The Commission order UI to work with Staff to review and analyze UI's current method of cost of service and rate design methodology;
2. The Commission order UI to develop a COSS with Staff for use in future UI rate cases; and
3. The Commission order that such review and analysis should be completed within six months from the date of the Final Order.

The Commission orders UI to work with Staff to review and analyze UI's current method of cost of service and rate design methodology. UI should develop a COSS with Staff for use in future UI rate cases. The review and analysis should be completed within six months from the date of this Order.

*Staff Exception 10: Rate Design*

Section VII.A, in its current form, does not fully explain Staff's position with respect to rate design. Staff recommended setting water rates by increasing the Base Facilities Charges (BFC) and the Usage Charges based on AWWA Meter Factors. (Staff IB, p. 25) Staff agreed with the Companies' proposals to recover a greater percentage of the revenue requirement from the Usage Charge so that customers are more able to control their monthly bill by adjusting their usage to match their budget. Staff increased the BFCs based on AWWA Meter Factors, where the allocation of costs among customer types was done through the application of Meter Factors ("AWWA Method"). This approach relates the flow for meters larger than 5/8" to that of the volume of flow for a 5/8" meter. Staff used equivalent meter ratios expressed in terms of the ratio of related meter capacity for each meter size relative to a 5/8" meter size.

The remaining revenue requirement increase is recommended to be recovered through the Usage Charges, which are the same for all meter sizes. Staff recommended that meter sizes should be consistent with the AWWA Method from 5/8" meter through 6" meters. The rates should recover Staff's recommended revenue requirement.

With respect to the proposed sewer rates, Staff accepted the proposed flat fee rate structure utilized by the Companies which included a separate sewer rate for customers using less than 1,000 gallons of water in a billing period. Also, Staff recommended that the Commission approve the Companies' proposed low usage rate to comply with the requirement of Section 8-306(h) of the Act to establish a sewer rate applicable to customers who use less than 1,000 gallons of water in any billing period.

As pointed out in Staff Exception 9, Staff respectfully requests that Section VII.A. - Rate Design and Billing Cycle - be deleted. In addition to the proposed language in Exception # 1, the following subsection and language should be inserted:

### **B. Rate Design and Billing Cycle**

Staff agreed with the Companies' water rate design proposals to recover a greater percentage of the revenue requirement from the Usage Charge so that customers are more able to control their monthly bill by adjusting their usage to match their budget. However, since there is no COSS provided as a basis for rates in this case, Staff recommended the Commission set the rates based on AWWA Meter Factors and Staff's proposed revenue requirement. (Staff IB, pg. 25).

With respect to the proposed sewer rates, Staff accepted the proposed flat fee rate structure utilized by the Companies which included a separate sewer rate for customers using less than 1,000 gallons of water in a billing period. Also, Staff recommended that the Commission approve the Companies' proposed low usage rate to comply with the requirement of Section 8-306(h) of the Public Utilities Act ("Act") to establish a sewer rate applicable to customers who use less than 1,000 gallons of water in any billing period. (Staff IB, p. 26.)

Furthermore, Staff argued that the Companies' rates do not comply with Sec. 8-306(i) of the Act, which mandates that the Company "must offer a separate meter to

measure each service.” (Id.) Although there are no existing customers with separate meters, and no data is currently available to calculate separate rates, Staff recommended that the Commission order the Companies to revisit the Section 8-306(i) issue again in its next rate relief request. Without a rate that complies with this section of the Act, any customer who may install, or who may want to install, a separate meter will be deprived of the opportunity to have a lower sewer bill for the amount of water that does not flow through the sewer system. (Id.)

The Commission observes that the Companies agreed to submit tariff language for separate meters for water and sewer service in their next rate case in order to comply with Sec. 8-306(i). (Id.) For this reason we find that the Companies are in agreement with Staff’s recommendation and should revisit the Section 8-306(i) issue again in its next rate relief request.

The Commission finds the development and design of the water and sewer rates in the manner recommended by Staff is reasonable and is accepted.

*Staff Exception 11: Table of Contents*

Based on the modifications proposed by Staff to the language in the ALJPO, Staff also recommends the following changes to the table of contents:

VII. <u>COSS/Rate Design/Tariff Terms</u> .....	24
A. <u>Cost of Service Study</u> .....	24
B. <u>Rate Design and Billing Cycle</u> .....	24
C. <u>Miscellaneous</u> .....	24

### III. CONCLUSION

For the reasons set forth *supra*, Staff respectfully requests that the Commission's Final Order in the instant proceeding reflect Staff's recommendations to the ALJPO regarding the Companies' proposed rate increases for water and sewer.

Respectfully submitted,

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April 20, 2012

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